

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANTHONY PERRI,

Plaintiff,

-against-

ORDER
06 CV 403 (CBA)(LB)

JOHN DOE, Captain; SERGEANT
BARRITEAU; SUSAN SAVIANO;
JOSEPH DITUCCI;
and THE CITY OF NEW YORK,

Defendants.

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BLOOM, United States Magistrate Judge:

On March 11, 2010, the Court denied the parties' cross motions for summary judgment without prejudice to allow the Court to consider whether a guardian *ad litem* should be appointed for plaintiff under Fed. R. Civ. P. 17(c), before reaching the merits of his claims. (Document 179.) The Court ordered plaintiff to undergo a psychiatric evaluation to determine his capacity to bring suit before a guardian *ad litem* would be appointed. See Neilson v. Colgate-Palmolive Co., 199 F.3d 642 (2d Cir. 1999)(discussing due process considerations in the appointment of a guardian *ad litem*). The evaluation was conducted by Dr. Merrill Rotter, M.D. on October 8, 2010, who submitted a report to the Court on October 17, 2010. (Document 205.)¹ Dr. Rotter found plaintiff's capacity to bring this action to be significantly impaired.

The Court shall hold a pre-appointment hearing on December 16, 2010 at 3:00 p.m. in Courtroom 11A. Ian Feldman, Esq., Director of Legal Services of the Mental Health Project at the Urban Justice Center, has agreed to serve as plaintiff's guardian *ad litem* should the Court rule that such an appointment is necessary. Mr. Feldman, defendants' counsel, and plaintiff shall appear on December 16, 2010 at 3:00 p.m. in Courtroom 11A. Plaintiff may state his objections,

¹ The psychiatric evaluation report has been filed under seal.

if any, to the appointment of a guardian *ad litem* at that time. If plaintiff fails to timely appear for the hearing, plaintiff will be deemed to have waived any right to object to the appointment.

SO ORDERED.

/Signed by Judge Lois Bloom/


LOIS BLOOM

United States Magistrate Judge

Dated: December 2, 2010
Brooklyn, New York